

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS
Regular Session - JUNE 25, 2007
AGENDA

7:30 p.m. - Roll Call

PRELIMINARY MEETINGS:

1. **FRANCIS BEDETTI (07-31)** Request for :

SHED:	7 ft. Side Yard Setback 7 ft. Rear Yard Setback	ADDITION:	6.5 ft. Side Yard Setback 10.7 ft. Total Side Yard Setback
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For proposed Shed and Addition at 5 Continental Drive in an R-4 Zone **(45-4-9)**

2. **MARY GAYTON (07-32)** Request for 10 ft. 6" Side Yard Setback and; 24 ft. Rear Yard Setback for existing attached 16ft. X 16 ft. rear deck at 114 Chestnut Drive in an R-4 Zone **(17-1-6)**
3. **MMJS, INC. (07-30)** Request for:

Use Variance for Existing three-family dwelling converted to four-family and;
18 ft. Side Yard Setback for Existing Side Deck and;
43 ft. Front Yard Setback for existing 5 ft. X 16 ft. Front Deck and;
43 ft. Front Yard Setback for existing 5 ft. X 20 ft. Front Deck

All at 1101 Route 94 in an NC Zone **(67-5-6)**

PUBLIC HEARINGS:

4. **THOMAS RETCHO & TERRANCE RETCHO (07-07)** Request for :

2 ft. Building Height for Proposed 8 ft. fence.
Interpretation and/or Use Variance for the storage, parking and use of trailers **(57-1-113.1)**
Interpretation and/or Use Variance for the storage, parking and use of trailers **(57-1-113.2)**

All at 42 & 40 Lakeside Drive in an R-4 Zone.

5. **CHARLES FLYNN (07-18)** Request for 2 ft. Maximum Height for existing 6 ft. fence projecting closer to the street than the dwelling at 213 Butter Hill Drive in a CL Zone **(80-1-2)**
6. **BRIAN & ANGELA MAXWELL (07-20)** Request for 10 ft. Rear Yard Setback for proposed pool and; Request for 22 ft. 9 inches Rear Yard Setback for proposed addition at 13 Hudson Drive in an R-4 Zone **(39-5-26)**
7. **ERNEST & GERMAINE BROWN (07-21)** Request for 5 ft. Side Yard Setback and; 5 ft. Rear Yard Setback for proposed above-ground pool at 2515 Constitution Way in an R-3 Zone **(77-8-3)**
8. **DARREN & JENNIFER SCHIAROLI (07-22)** Request for 23.7 ft. Side Yard Setback and; 48.8 ft. Total Side Yard for proposed addition to single family dwelling at 15 Carpenter Road in an R-1 Zone **(53-2-7)**
9. **KATHRYN FERRY (07-17)** Request for 8 ft. Side Yard Setback for existing rear deck on a corner lot at 2 Creamery Drive in a CL Zone **(78-1-19)**

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TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS
JUNE 25, 2007

MEMBERS PRESENT: KIMBERLY GANN, ACTING CHAIRMAN
KATHLEEN LOCEY
ERIC LUNDSTROM
PAT TORPEY

ALSO PRESENT: ANDREW KRIEGER, ESQ.
ZONING BOARD ATTORNEY

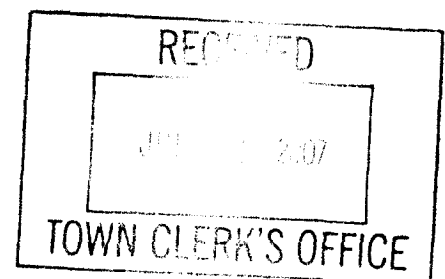
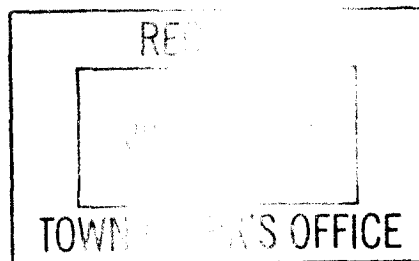
MYRA MASON
ZONING BOARD SECRETARY

ABSENT: MICHAEL KANE, CHAIRMAN

MICHAEL BABCOCK
BUILDING INSPECTOR

REGULAR_MEETING

MS. GANN: I'd like to call to order the June 25, 2007
meeting of the New Windsor Zoning Board of Appeals.



PRELIMINARY_MEETINGS:

FRANCIS_BEDETTI_(07-31)

MS. GANN: On preliminary meetings as well as public hearings what you'll have to do is when we call your name, come on up, tell us who you are, give us your name and address, tell us why you're here, we'll ask you a set of questions and the preliminary folks will need to come back for a public hearing. Folks here for the public hearing this will probably be the last night that you'll be here. So without further ado, I'd like to call to order the first preliminary meeting which is Francis Bedetti. Request for a shed and the addition at 5 Continental Drive. Good evening.

Ms. Christine Bedetti appeared before the board for this proposal.

MS. BEDETTI: He has an existing shed there. What he wants to do is make a bigger one and he's going to be moving it over so it will be 3 feet off our property line.

MR. LUNDSTROM: Where is the current shed at?

MS. BEDETTI: In our back yard.

MR. LUNDSTROM: Where on the plat, if you can show the rest of us.

MR. TORPEY: Kind of stand back and show us all, Christine.

MS. GANN: These pictures show where the shed is?

MS. BEDETTI: No.

MS. GANN: This is the shed?

MS. BEDETTI: Yes, right, this is our property line.

MS. GANN: You want to make this current shed bigger?

MS. BEDETTI: Yes.

MS. GANN: Are you taking out this additional piece right here to make the shed bigger?

MS. BEDETTI: No, what he's going to do is go over this way, go a little bit over and come over towards the property line.

MS. GANN: What's the existing shed on now, what sort of platform is that?

MS. BEDETTI: I think it's on cement cylinders.

MS. GANN: Are you going to be using electric inside the shed?

MS. BEDETTI: No.

MS. GANN: Will this be going over any easements?

MS. BEDETTI: No.

MS. GANN: Will you be creating any water hazards in the building of the new shed?

MS. BEDETTI: No.

MS. GANN: Will this be causing any drainage problems?

MS. BEDETTI: No.

MS. GANN: And would you characterize this shed as being the same size as others that are in your neighborhood?

MR. KRIEGER: Similar in appearance?

MS. BEDETTI: I believe so, yeah.

MS. GANN: Taking down any substantial vegetation in the building of the new shed?

MS. BEDETTI: No.

MS. LOCEY: Did you ask the same set of questions for the addition?

MS. GANN: Now for the addition, will you be creating any water hazards in the building of the addition?

MS. BEDETTI: No.

MS. GANN: Will you be running over any easements?

MS. BEDETTI: No?

MS. GANN: Will it be creating any drainage issues?

MS. BEDETTI: No.

MS. GANN: And what will exactly what will the addition look like and where is that?

MS. BEDETTI: This is the side of our house here and we're going to come out up to 8 feet and then how the front of the house is here it will make that roof like that on that side.

MR. LUNDSTROM: Can I make one suggestion? If you do go to a public hearing, would you please have that plot plan blown up and put on the easel for the benefit of all the board members and the public? Right now, the only person that's seeing that is the chairman, the rest of the board is not seeing it.

MS. BEDETTI: Okay.

MS. GANN: Do you have these pictures Eric?

MR. LUNDSTROM: Those pictures I have.

MS. GANN: Kathleen, do you have these pictures?

MS. LOCEY: We do.

MR. LUNDSTROM: If that's these?

MS. GANN: Yes.

MS. BEDETTI: That's correct.

MS. BEDETTI: It's on that side and see how the porch extends out that roof line will meet over here so the existing porch will stay.

MR. LUNDSTROM: Just for the public hearing if you would there's an easel there if you can have it blown up so that not only us but the public can see that.

MS. BEDETTI: Okay.

MS. GANN: What will the addition be used for?

MS. BEDETTI: Extension of our living room dining room.

MS. GANN: I don't have any further questions. One last thing I don't know if I asked this already, will you be cutting down any substantial vegetation in the building of the new addition?

MS. BEDETTI: No.

MS. GANN: Okay, any other questions from the board?
I'll accept a motion.

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MS. LOCEY: I will offer a motion to schedule a public hearing on the application of Francis Bedetti for the requested variances for a proposed shed and addition to the home as detailed in the agenda of the Zoning Board of Appeals meeting date June 25, 2007.

MR. TORPEY: I'll second that.

ROLL CALL

MR. LUNDSTROM	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MS. GANN	AYE

MARY_GAYTON_(07-32)

MS. GANN: Request for 10 ft. 6 inch side yard setback and 24 foot rear yard setback for existing attached 16 foot x 16 foot rear deck at 114 Chestnut Drive.

MRS. GAYTON: Mary Gayton, 114 Chestnut Drive.

MR. GAYTON: Thomas Gayton, 114 Chestnut Drive. We have an existing 16 x 16 deck and we're trying to close on a house and we need to get this to pass.

MS. GANN: How old is the deck?

MR. GAYTON: It's three years old.

MS. GANN: And you built the deck yourself?

MR. GAYTON: Yes.

MR. LUNDSTROM: Was the deck built with the benefit of a building permit?

MR. GAYTON: No, it was not march.

MRS. GAYTON: We're in the process of obtaining that.

MS. GANN: Does it go over any easements that you know of?

MR. GAYTON: No.

MS. GANN: Did you take down any substantial vegetation in the building of the deck?

MR. GAYTON: No.

MS. GANN: Did you create any drainage problems or water problems when you built it?

MR. GAYTON: No.

MR. LUNDSTROM: I have a question, Madam Chair, it looks like from these pictures is there an exit from the house onto the deck?

MR. GAYTON: Yes, there is.

MR. LUNDSTROM: Is that exit door higher than the ground level or is it at the ground level?

MR. GAYTON: It's at the deck level.

MR. LUNDSTROM: How high is the deck?

MR. GAYTON: Three feet off the ground.

MR. LUNDSTROM: Would it be safe to say if the deck were not there it would be a health hazard or people walking out the door and falling to the ground?

MR. GAYTON: Yes.

MS. GANN: Any other questions from the board?

MS. LOCEY: Have you had any complaints from your neighbors?

MR. GAYTON: No.

MRS. GAYTON: Can't really see the deck cause there's a fence around it.

MS. GANN: I'll accept a motion.

MR. LUNDSTROM: Madam Chair, I will offer a motion that we schedule a public hearing on the application of Mary Gayton for a 10 foot 6 inch side yard setback and a 24 foot rear yard setback for existing attached 16 x 16 rear deck at 114 Chestnut Drive in an R-4 zone.

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MS. LOCEY: I'll second that motion.

ROLL CALL

MR. LUNDSTROM	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MS. GANN	AYE

MMJS,_INC._ (07-30)

Mr. Joseph Minuta appeared before the board for this proposal.

MS. GANN: Request for use variance for existing three-family dwelling converted to four-family and 18 foot side yard setback for existing side deck, 43 foot front yard setback for existing 5 foot x 16 foot front deck and 43 foot front yard setback for existing 5 foot x 20 foot front deck all at 1101 Route 94 in an NC zone.

MR. MINUTA: Good evening, ladies and gentlemen of the board, Joseph Minuta of Minuta Architecture here to represent the client, the owners are here in the audience. We have Yu Hei Tung Suen, one of the owners, she's here with her daughter, Mary. The project is here before you tonight because they had purchased the property with the understanding that it was a four, had four apartments. It's currently designed and constructed to have four apartments. However, the town has not permitted this use for this area, that's why we're here tonight. Currently it has a Certificate of Occupancy for three apartments. I have prepared the plan of the existing conditions showing the various apartments, first floor and second floor, they're already constructed, they have obviously been occupied prior to this and what we're trying to do tonight is bring everything up to code compliance and zoning as well. So for your information this evening we have in particular the use variance, 18 foot side yard setback for the existing side deck and that deck currently exists in the front here and here, the 43 foot front yard setback for the existing 5 foot by 16 foot deck in the front and there's another one 5 x 20 in the front. So those are the items we're seeking a variance for this evening. We're proposing should this board look favorably upon the fourth apartment which exists to provide adequate parking in the rear of the property.

We currently have three spaces, we can provide a fourth space and provide accessibility to the basement, not the basement, the first floor level apartments in the form of wheelchair or ambulatory access. To orient you to the site it's just passed the Thruway trestle near Tarkett on 94 on the left-hand side, there's a series of single family homes and commercial property across from that. I believe you have the benefit of the photographs and for your reference there's a rendering of the site.

MR. TORPEY: So it always was four apartments?

MR. MINUTA: It was previously being occupied to our knowledge as four apartments, they're already constructed, the one that's built obviously it's been there for a while. The town didn't have documentation of it, it was purchased on foreclosure, it was being purchased with the understanding that it was four apartments, that's why we're here tonight.

MR. TORPEY: Got gas, electric and everything there?

MR. MINUTA: Everything's set up, kitchen's in, everything is in.

MS. LOCEY: Is a three unit dwelling a permitted use?

MR. MINUTA: It's currently permitted through a set of occupancy prior to zoning, currently this zone does not permit that but we're neighborhood commercial and if you're familiar with the area most of the properties are commercial on or about that strip of 94.

MR. KRIEGER: So it appears that the question is it's pre-existing, non-conforming, sounds like it's a pre-existing, non-conforming use for three units, now the question is is it, is four units allowed. And I would suggest to the board that they ask for an interpretation failing that a use variance because if

the fourth unit falls under the pre-existing umbrella then they don't need a use variance, obviously is set up for a fourth unit.

MR. TORPEY: How many units are really there?

MR. MINUTA: Four.

MS. GANN: So Joe just for the record you're not doing any construction, everything is already there in the structure of this building?

MR. MINUTA: For the record, the building exists as it is, as is documented here in the plans. Furthermore, we're upgrading the apartments because there's an existing non-conforming, obviously it's an old building, there's an existing, non-conforming ceiling height so we have already been to the state, we're requesting a height variance when we met with them and they're providing that, we're providing interconnected battery backup. And what else are we doing, just providing accessibility as required.

MR. KRIEGER: You're not changing the footprint of the building?

MR. MINUTA: We're not changing the footprint of the building, we're altering the rear stair because it was not constructed properly for accessibility, so that's going to be reconstructed but other than that, the existing footprint and internal structure of the building will remain as such.

MR. LUNDSTROM: One question, Madam Chairwoman, when the people who currently owned the building when they first bought it who did they hear from that it was a four-family dwelling? Did anyone in the town give them that indication or the agency that they purchased it from?

MR. MINUTA: It's our understanding the agency that they purchased it from obviously it's foreclosure, doesn't go through the normal parameters of a sale, so with regard to that I would defer to the client and the property was understood to be four family and that came through the foreclosure agent.

MS. SUEN: Yes.

MR. LUNDSTROM: How long ago did they acquire the property?

MS. SUEN: November 29, 2006.

MR. MINUTA: November 29, '06.

MR. LUNDSTROM: Formally from what I understand the banks before they issue a mortgage will write a letter to the towns asking for copy of the C.O. for the use that they perceive it as. Did that ever happen?

MR. MINUTA: We're currently working with the bank on this case cause I think they missed it. As well we have been in contact with them with regard to the loan and the extensions and so forth.

MR. TORPEY: Foreclosure's a whole different ball game with anything.

MR. LUNDSTROM: But still with a foreclosure the bank has to offer the money to--

MR. TORPEY: So sometimes you don't need a bank.

MS. LOCEY: But was the mortgage requested and granted based on it being four family?

MR. KRIEGER: Obviously, if it was foreclosed there must have been a mortgage, except foreclosure would indicate by definition.

MS. LOCEY: Well, the other people that had to be satisfied the purchaser didn't have a mortgage then there would be no bank.

MR. KRIEGER: The purchaser?

MS. LOCEY: Yeah, the applicant, was there a mortgage?

MR. MINUTA: The bank is involved with a mortgage.

MR. KRIEGER: I didn't understand Mr. Lundstrom's question to be with respect to that, I understood it to be with respect to the issue, the original issue and the foreclosing bank, if they loaned money based on a representation that it was a four family house, four family unit, four unit dwelling then that would be a means of establishing at least that far back.

MS. LOCEY: But there's a bank with an interest in it with the current owner.

MR. MINUTA: Absolutely.

MS. LOCEY: And that mortgage has been secured or waiting for this?

MR. MINUTA: Has your mortgage been secured for the property?

MS. SUEN: Approved, yes, there's a certain amount that they want it approved for, they keep the same amount.

MR. TORPEY: They own the house?

MR. LUNDSTROM: Did they approve the mortgage as a two family or four family house?

MS. SUEN: They're waiting for the variance, I mean, we're waiting for the C.O. for the fourth.

MR. MINUTA: They're waiting for a C.O. for the fourth. All of this came up after the fact they were cited by the town building department because there's nothing on file with respect to the building, what its configuration was since its existence, the only item that they did have on file which I met with Frank Lisi in the field was that it was a three family, always been used as a three family to their knowledge so this however long this fourth apartment has been in existence we really do not know but the understanding is that it's constructed, it existed and we're coming to you to make this whole if you will.

MS. LOCEY: So these people purchased this in good faith as a four family building?

MR. MINUTA: That's correct.

MS. LOCEY: Received a mortgage but sometime along the line there was this problem is it a legal three family or a legal four family, now the bank wants clarification.

MR. MINUTA: That's correct.

MS. LOCEY: I think that as this application is forward we should amend the presentation that we ask for either an interpretation or lack thereof for a use variance, that's what the request should be for an interpretation and/or use variance, not just a use variance as it's stated here.

MR. MINUTA: If that pleases the board, we'd be happy to make that modification.

MS. GANN: Any other questions from the board?

MR. LUNDSTROM: I think it's a valid request because the ability of this board to grant a use variance our

hands are tied by state law, there's got to be a lot of, basically, you're going to have to be able to prove that the new owners would not be able to get a reasonable return on their investment if it were not for that and that's going to be very difficult to prove.

MR. MINUTA: Very well.

MS. GANN: I'll accept a motion.

MS. LOCEY: I'll offer a motion to schedule a public hearing on the application of MMJS, Inc. for an interpretation and/or use variance and other setback variances all as detailed on the agenda for the New Windsor ZBA dated June 25, 2007 at 1101 Route 94.

MR. TORPEY: I'll second that.

ROLL CALL

MR. LUNDSTROM	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MS. GANN	AYE

PUBLIC_HEARINGS:

THOMAS_RETCHO_&_TERRANCE_RETCHO_(07-07)

MS. GANN: Request for 2 foot building height for proposed 8 foot fence, interpretation and/or use variance for the storage, parking and use of trailers (57-1-113.1) and interpretation and/or use variance for the storage, parking and use of trailers (57-10113.2) all at 42 & 40 Lakeside Drive in an R-4 zone.

Mr. Thomas Retcho and Mr. Terrance Retcho appeared before the board for this proposal.

MR. T. RETCHO: Thomas Retcho, 42 Lakeside Drive.

MR. TE. RETCHO: Terrance Retcho, 40 Lakeside Drive.

MR. LUNDSTROM: Madam Chairwoman, I must recuse myself because of my position on the homeowners' association.

(Whereupon, Mr. Lundstrom stepped down from the board for this proposal.)

MS. GANN: Tell us why you're here this evening.

MR. T. RETCHO: I'm here tonight, I need to clear, I'm here for a variance for side yard fence increase of 4 feet from 4 feet to an additional 4 feet for an 8 foot total for screening purposes. Also and this is where I have to modify this I guess or ask for a modification, preliminarily I was instructed by town counsel to meet with counsel of my own for a use variance or interpretation thereof. I met with Dorfman, Noble and Conway in Westchester, New York regarding this variance. After a couple meetings with him, the use variance in that area is obviously was not going to work based on state law and what the Town Law, his legal recommendation to me was to remove the business aspect from the residence at 42 Lakeside Drive. Since

speaking with him, all paperwork, all phone calls are rerouted and contracted to an outside source, not even in the Town of New Windsor. So, again, from this counsel meeting with him the request that I would be making tonight then would be for a variance to the Town Code to allow just the storage and/or parking of said trailers that are in your possession for just the storage of them until they're taken off the property for use.

MS. GANN: Now when you're saying taken off the property for use, are you saying when you go to work in the morning let's say and those particular items are taken off the property, is that every day they're taken off the property?

MR. T. RETCHO: Not every day. The complainant in this case has made reference that this is a large operation and not a mom and pop operation. It's not a large operation, I gross maybe \$30,000 from this, it's operated, I operate maybe three days a week with this, in my viewpoint, it's part time work. I don't operate five days, six days, seven days a week in reference to the question you just asked.

MS. GANN: Can you just clarify for us which and if in fact all of these items are actually being stored on the property just so we have a sense of what's being stored on the property?

MR. T. RETCHO: Okay, the truck that you see in the photo leaving the driveway that's a GMC 3500 pickup truck with a dump body on it. There's two photographs that show the truck leaving the property, I don't think they have these photos. And there's two photographs there, the one you're looking at there just shows the truck, one of the, originally, Ken Schermerhorn decided the commercial vehicle code for all this stuff and I informed him according to the VOT that in the code that the town has it excludes commercial vehicles, trucks

and SUVs 10,000 pounds or less from the code and he agreed with me and the truck is a non-issue in this particular case, but that would be one of the items. I also use that on a daily drive, I drive that as a personal vehicle as well. The next photo of the seal coat machine, the black apparatus that's used, I use that maybe one month out of the season usually towards the end of the summer, I just purchased it last year for seal coating driveways. There are no chemicals, hazardous chemicals in it, it's a water-based compound with sand, to address any concerns regarding chemicals. The next item is an enclosed trailer that's, I basically keep my two lawn mowers in there and hand tools. The next item is a white flatbed trailer that's used for moving a small backhoe or I usually use, I move a skid steer (phonetic) usually from the rental place to the job and then back to the rental place, it's usually not far from home, unless I'm using it as a personal, on my own property for my own property for my own personal use because the property is still in the development. So come the time when I get a piece of machinery that I rent for a customer I'll make use of that machinery on my own property at times so it's not brought back and just kept there. The machine, the green machine with the plastic tub on it that's called a hydroseeding machine that basically is fresh water with a fertilizer, no hazardous, it's a straight fertilizer, there's no pesticides or anything in it, it's a new grass grow fertilizer and grass seeding, a paper mulch which is compressed from bails of shredded phone books and so forth. And that's it. And the other photos that I included are, I'm just, in these photos I'm just trying to show the length and proximity of the equipment in relation to the road, it's almost in reverse, if you look at the photo that looks down the driveway, has a brownish fence to your left, that's not even near the top where the driveway crest is.

MS. GANN: Is this the place where you have the storage?

MR. T. RETCHO: Well, that's, yes, that also came up in the complainant's opposition to the variance that I was adding because my business was growing and in actuality what was happening on this side, this is my driveway that runs down here, this property here on this side is my father's property, 40 Lakeside Drive, I own the other side, what I was doing with this before everything took place was I was creating this area here to put up one of those portable garages to clean up the area that obviously wound up being the root of I guess the problem, smaller stuff that I had stored up in there. And at one point it was a little unsightly, so I was creating that to put that in and then when this came to a head I was informed by Ken Schermerhorn that I could not put up a portable garage, that's the vinyl half round things that they're not allowed in the Town of New Windsor. So, therefore, that was the reason for increasing that, the complainant states in the letter that I was doing it because my business is growing, the equipment that you see other than the seal coat machine is the only piece that I've added in five years, I've had this other equipment, I've been using it, there have been no issues up until when this came to light regarding any inconveniences, nothing came about and this is on a social level in the neighborhood from any other neighbors regarding safety, regarding chemicals, regarding anything, had there been, it could have been addressed in a neighboring fashion, which is not anything that I'm not willing to do. So, again, I guess it would partially I guess on town counsel's voice and the board I leave according to conversations with my attorney or with the counsel that I referenced that taking the business aspect out of it, off the property now takes me out of the situation of applying for a use variance because business is not being conducted from that property. I'm bringing this, I obviously have to equipment on the property, it leaves the property and I bring it home just like anybody who might bring home their flatbed truck or something or

their Sears van at the end of the night. I don't do any business in terms of people don't bring me anything, I don't fix things on my property for them, I take whatever, if I'm using this that day I take it and I leave it, I come back at end of the day, I park it. And on these other photographs I tried to show to the best I could this one in particular it's, I don't know, that basically shows the viewpoint from where I keep the equipment, through the woods there you can barely make out the complainant's house. I think the more the issue with the complainant is that in the fall when the leaves fall and the foliage disappears that they can see this equipment and I would agree with them by saying that it might be an eyesore, I was never approached about putting up a fence which would have solved the visibility aspect of it. In fact, about a month ago I had the opportunity to see Mr. Dragos near the road of his property, I stopped, I introduced myself because at this point I had never met him, I asked him if there was any way that we could come to a reasonable compromise and solution to the problem. I never heard back from him. I believe that, you know, if this was a, just an issue of them not wanting to see this, they have also made reference even from the beginning when I first built my house, they commented to the fire inspector that my house should never have been built in the first place, it's actually in the first paragraph of their own thing, their objection to my variance where this seems to be just more of a I've intruded on their privacy, whether or not the business exists there or I just have a driveway that runs down passed their house. I don't feel that this should be the forum for them trying to maintain or to conceal their privacy. Privacy is a very important issue, that's why I built my house in the woods, I like my privacy. I would be concerned with similar instances but I think I might take approach to, you know, addressing my neighbors first and see if we can come to, I mean, it seems to be a little bit more of legal, some of it's a little bit legal, I don't know if I've

taken that aspect off the table and we're just dealing with the variance to allow the equipment, so that's what I'm asking the board, it's a variance, a variance for the storage area of the trailers. If I could add the last time I was here the gentleman that recused himself he had asked me if I could give him a list of other people in the area that had similar either businesses or equipment and although I'm not going to give names and addresses because I don't feel that would be fair to those people but this is within a two mile radius of my home basically within Beaver Dam Lake there are 12 locations that have motorcycle trailers and/or ATV trailers existing which are under this code not allowed. There are seven businesses with similar trailers and/or equipment that operate within the lake. There are four locations where company vehicles are brought home every night. There's one person who has a wholesale car business from his property which is very close down the street from where myself and the complainant live and there's one business three driveways down that operates a plumbing business where he has two or three box trucks, vans, cars that park in the driveway every day for their employees, he has a commercial delivery of plumbing parts every day to the house. So, again, my concern in relation to why this has come about is in the complainant's statement she indicates safety and all the other things in the neighborhood but makes no complaint about a neighbor three doors down who operates and brings trucks in and out of their property and such. And my viewpoint of that is that it's not bothering her so it's not an issue but those were the issues that were brought up in the complaint regarding the stuff that I have at my house.

MS. GANN: Okay.

MR. T. RETCHO: With that I'll give it back to the board.

MS. GANN: I'm going to open this up to the public. Is there anyone here that's here for this public hearing? I need you to sign the sheet we're going to pass around here, put your name and address then when you come on up please speak loudly enough for the stenographer to hear you.

MR. DRAGOS: I'm Robert Dragos, 46 Lakeside Drive, I'm the next door neighbor, I'm the complainant. I live on the next property with my family, I'm directly adjacent to his property to the north. I brought my survey. This is Lakeside Drive.

MS. LOCEY: This is your property?

MR. DRAGOS: Yes, ma'am, this is Lakeside Drive, this is my property, my driveway and my parking area over here, okay, this is where I live, okay, this is Mr. Retcho's property, this is Thomas Retcho's property here and this is his dad's property over here. I live right here from Retcho's house is over here, where he wants to store his equipment is here and his driveway is here and his dad's driveway is here which is 75 feet from my house, 100 feet from my house, 700 feet from his house so it really in all fairness if he was interested in not imposing he could keep it down here, this is pretty much all new.

MR. TORPEY: Where is his house and where is your house?

MR. DRAGOS: Right here.

MR. DRAGOS: So just on that basis, Mr. Retcho's operating his properties, I mean, this business on his property since I'm not sure, maybe five years. Last year when he started expanding his parking area over here is when I finally said enough is enough, he started parking, you know, a piece of equipment and two pieces of equipment, maybe he was moving it all up

here, maybe it was over here but anyway this is where he feels he can store it best, okay. Having a business in New Windsor on private property of this magnitude is wrong, it's illegal, okay, and it's wrong and I thought it was finally time to speak up. And he was taking advantage by parking over here and here, okay, at some point we had approached, he was, let's go back, two years ago he was blowing dirt on his driveway cleaning his driveway, we approached him to say that he's creating a whole lot of dirt, that he's blowing dirt, my wife went over to say, my wife went over to say you're blowing dirt, he said get off off my property.

MRS. DRAGOS: He said I used to be a cop, get off my property.

MR. DRAGOS: He said get off my property. He's not warm and fuzzy, okay, this is, you know, he just told us to get off, he doesn't really care too much about who his neighbor's are, how he inconveniences us. I could go on for a really long time but I think that this here just speaks for itself. When I finally reported it and I've shown you all these pictures, I've written you letters and you guys have seen all this already when I said, when I finally called the town and they said that parking here was unacceptable, okay, this was his reaction, this is not a spirit of compromise, this is not a spirit of cooperation, this is not what we're going to sit down and we're not going to chat over coffee about how we're going to resolve this, okay. So I think that it's the, he's saying that I was, you know, anyway, as far as, I mean, I can go on, we've researched it, you can't store trailers whatever you call them, they can't be stored, they can't be stored on the property in a residential area, he can't operate a business here, that's all illegal as far as I know. There's no reason to grant a variance, he's not interested in cooperating with anybody. The only time he decided it was time to cooperate was when he finally found himself in a situation where he was

done, okay, which is why I really didn't want to discuss with him, you know, any at this point any compromise cause he has shown up to this point no indication that he was willing to compromise. So this is where this is, where we are today, if you want, I can go on for a long time, I don't, really don't think there's a need to, you know, it doesn't belong here.

MS. GANN: Thank you. And you, ma'am?

MS. DRAGOS: I'm Amy Dragos, 46 Lakeside Drive, New Windsor. I'm also a neighbor, I'm married to Bob. We went back to 2001 when there was like a planning board meeting or whatever, a zoning board and he wanted to build his house and we were all concerned about different things, the water issue. Mr. Retcho assured us that if there was any kind of water problem he'd take care of it. Meanwhile, there was a water problem for my neighbor, he's got pipes directly leading on my property from the back of his house into the woods and it's wet down there already, so I can't prove how much more wet it is but having a drainage pipe directly on your property is a sign, Mr. Retcho does not care about his neighbors, he only cares about himself, so if he gives you this same--one time I went over, he was blowing dirt with his leaf blower to the point where I saw it on my second story of my house, I looked out the window and realized it was obscuring Vascello Road. I thought somebody was going to get hurt. I went over and said I don't know if you can tell where you are but you're causing this problem. He said I used to be a cop, get off my property. He said I'm trying to get, he said you're not trying to help me, get off my property. So when this issue came up he wasn't the first person I was going to go and talk to and I explained that to Ken Schermerhorn formally if I have an issue with a neighbor I'd talk to them, but I don't feel in this case that I can because this is the kind of answer I got, so I just, you know, as this wasn't just like a little parking area, he started dumping

bricks and we went to the town, is he allowed to enlarge, you know, this plateau over towards our house and then he started with the trees when we complained and he continued to add dirt, he added about 30 truck loads of dirt at least to build out this plateau. Now he wants to put an eight foot fence on top of that which is going to really be like a wall like from King Kong, you know, there's going to be like this huge barrier.

MR. DRAGOS: This has been brought up X amount to make it flat and what, since this he's added 30 more I would say he's, I mean, I didn't stand and count them but he was bringing in fill from Stewart Airport, he brought in for three days 8, 10 hours a day the dump trucks were just coming in banking in piles and piles of fill and dropping it down by his house, he's built this, he's taken all his property and he's built it up higher than everything around him, made, you know, it's very nice but, you know, my property's currently flooded in the back because the water has no place to go, not that I use it, you know, that was always our buffer against bad neighbors.

MRS. DRAGOS: I also have a question to ask you. If he's using this private driveway to access this is a legal issue to access his father's property for parking as well as his own, is that considered private road? Cause it said back in 2001 that you're not allowed to do that, the town, Mike Babcock and Mr. Torpey said that that's not allowed. I don't know if it is only to a house.

MR. KRIEGER: Whether it's allowed or not this board has no legal power to do anything by the one way or the other. I offer no opinion as to whether it's legal or illegal, it's just whether it is or not, there's nothing that the Zoning Board of Appeals can do about it, it's not the right forum.

MRS. DRAGOS: Who would you talk to about that?

MR. KRIEGER: I would suggest first of all that you would be best advised to talk to counsel about it and maybe a court remedy, maybe a local court, maybe Supreme Court, maybe some other body but it's not the Zoning Board of Appeals.

MRS. DRAGOS: When he was building his house one of our concerns was our privacy because we were facing the woods, our house was basically backed in a little bit, okay, and I was also concerned that he was going to build two or three houses or, you know, that it was going to turn into a little development in the woods and these were things that were brought up and they said that these things would not happen. This is a driveway, if it's ever used for anything but a driveway to a single-family house it becomes a private road and would have to meet all the private road standards, 50 foot width, it would not be legal and the applicant then says don't have room to do that.

MS. LOCEY: And you're reading from what?

MRS. DRAGOS: I'm reading from the March 12, 2001, I don't know which one, zoning or planning board.

MR. KRIEGER: It's zoning board. Mr. Torley, he was a different member.

MRS. DRAGOS: And so this was at a zoning board?

MS. GANN: Yes.

MRS. DRAGOS: So also there was a stipulation that it would not be ever used for anything besides that at this meeting so just feels like he's using it for other things besides just a driveway down to his house.

MR. KRIEGER: All I can tell you is the ZBA has no

enforcement capability, all right, there are no zoning police, there are no, there's nothing that it can do to cause that to be enforced or not enforced. Mr. Torley gave you an opinion as to what the Town Law and the Town of New Windsor provides is fine and it was largely as far as I'm concerned largely accurate but what can, you know, the next question so what, what do you do about it, well, that's not here.

MRS. DRAGOS: Mr. Babcock said the same thing.

MR. DRAGOS: His application is for putting a Band-Aid on a gun shot wound, this is, he wants to keep this, he finds his own equipment unsightly, he doesn't want to keep it down by his house, that's a public record, he said that. So he wants to keep it up by our house but he wants to put up an attractive eight foot stockade fence around this to hold this equipment, that's okay for us to look at but it's not acceptable for him to look at and I think that--

MS. GANN: Okay.

MRS. DRAGOS: He also in some of the notes that I got from the town said that he doesn't get his variance just watch what I do to them next basically.

MR. DRAGOS: There was an implied next just wait till they see what I do if I don't get my variance.

MS. GANN: Thank you very much.

MR. ARMENDAREZ: My name is Jose Armendarez, I live at 21 Vascello Road. My wife's property borders the property on Vascello Road. We have a buffer between me and Mr. Retcho. Drainage problems, I know you're here for when he built the house we've had more water problems since before, we even before he even moved in there and right now I think how much about?

MRS. ARMENDAREZ: About \$2,000 just in our driveway now comes right up in the house.

MR. ARMENDAREZ: My driveway is tore up just in drainage but the wall that she was talking about, the ditch that goes between my yard and their yard because when he built his house he diverted the water and it's all coming down, it used to be a small pond, now it's like a lake and all that water's diverted to my property and we've had nothing but problems in the basement of my house and the last snow storm or the last storm we had 11:00 at night till 5 o'clock I was sucking water out with a Shop Vac.

MS. LOCEY: These problems started when?

MR. ARMENDAREZ: After I built the house and I came to the town and I asked the town to look at it and the old administration, the highway superintendent came over and he says well, you're going to have to sue the Dragos, I said well, why should I sue them, they didn't create the problem, he did. So the town said well, might as well take care of it yourself by the time you go to court I'll spend 20,000, \$50,000, I don't have that kind of money.

MS. GANN: Thank you.

MR. ARMENDAREZ: And the letters that she has from the Town Board from 2001 it states that there's not to be another subdivision, well, the road it would create a subdivision.

MS. GANN: And this isn't a subdivision that we're talking about here.

MR. ARMENDAREZ: Here's the deed and right in the father's deed there's not supposed to be public property. Thank you.

MS. GANN: Thank you.

MR. SMITH: My name is Everett Smith, I live at 25 Vascello Road and I got this notice of public hearing in my mail, my wife gave it to me and told me I should look into it. I knew nothing about what was going on and when I read it, I still didn't know what was going on. Four foot building height for proposed eight foot fence, I have an architect he's a friend, I asked him what does that mean, he says I don't know. Then interpretation and/or use variance for storage, parking and use of trailers, both trailers, he has a couple, both trailers. What wind of trailers? How many trailers? It says nothing. I guarantee you that there'd be a lot more people here tonight if they knew what this stuff meant. I just am now--

MS. GANN: That's why we have the public hearing, that way people can come here and find out what's happening.

MR. SMITH: But I wouldn't have come if it wasn't for my wife asking me to look into it.

MS. GANN: You can't put everything in detail, that's why you have to come to the public meeting.

MR. SMITH: Okay, well, I'm here.

MR. KRIEGER: Since he's here, show him the pictures.

MS. GANN: I can certainly show you what they're talking about here.

MR. SMITH: Doesn't matter cause now I know what you're talking about and as a person who lives in the front of the Dragos and whose property is right there with the Retcho's I, you know, Mr. Retcho mentioned 12 cases in the area within a 2 mile limit that are in violation of the Town Code because they have a couple of trucks in their yard or whatever and it's a business use. As far

as I'm concerned, 13 wrongs do not make the other 12 right. We're just adding one more wrong to the situation, maybe the other 12 have to be looked into but he's going much further than a couple of trucks for a plumber in the yard, you're talking about a sealer which is used one month out of the year, you're talking about a number of different construction equipment, pieces of construction equipment, a lot of stuff which I'm going to have in my back yard, which the Dragos are going to be looking at. I did not buy a house in Beaver Dam which is a strictly residential area to have this construction stuff in my back yard. It doesn't belong there, shouldn't be there and I don't care if there's other people in the area that are breaking the code, perhaps that has to be looked into, but this certainly giving approval to something like this is just making 13 wrongs instead of 12 wrongs so I'm asking you to please, I'm quite upset with this, just learned about it tonight as to what this stuff is and I'm, I certainly don't want it in my back yard.

MS. GANN: Thank you.

MR. T. RETCHO: If I can interject regarding Mr. Smith's comments, if the board would ask Mr. Smith where he operated his printing business for 20 some odd years.

MR. KRIEGER: It's irrelevant where he operated or whether anybody else was breaking the law, I don't care whether there's 12 or 112, it's immaterial. What's in front of this board at this point is this particular application, nothing else.

MS. GANN: Thank you, Mr. Smith.

MRS. ANDERSON: Joan Anderson, 45 Lakeside Drive. I'm just inquiring that we're in a residential area and a lot of this is repetition and how come trailers and everything else can go in and out?

MS. GANN: Just for the record, are you for or against this?

MRS. ANDERSON: I'm against it because why would they put up a fence if the trailers weren't approved so they must have been approved?

MS. GANN: Sir, are you here to say something? Can you state your name and address?

MR. ANDERSON: Robert Anderson, 45 Lakeside Drive, New Windsor, New York.

MR. KRIEGER: Just for your understanding, nothing has been approved by this board or disapproved, there are two applications but they're brought here simultaneously, doesn't mean that one was, something was approved and then this application was brought, he brought them both at the same time.

MRS. ANDERSON: Cause like 2 1/2 years ago when this driveway was approved it was for one car and one house, not one car but a house, suddenly it's all these commercial equipment going in and out.

MS. GANN: Thank you. Anyone else here for the public hearing?

MRS. ARMENDAREZ: Audry Armendarez, 21 Vascello Road. I just want it on the record that I'm against this, it's not, I'm against this but I'm also, my back yard is his side yard and I'm annoyed quarter to seven Memorial Day weekend I hear beep, beep, beep, he's constantly working on the property with this equipment. End of story.

MS. GANN: Thank you. Anyone else? Okay, I'm going to close the public portion of the meeting and ask Myra how many mailings we had.

MS. MASON: On June 12, I mailed out 49 addressed envelopes and had no response.

MR. KRIEGER: For the board's understanding so that you know what the code provides there's no definition in the New Windsor Codes for the word business nor is there as they call it in the law a bright line test, either it is or it isn't, if you do or don't do something in particular business, when a word is not defined by the statute, it is to be given its so-called common meaning, that means it's up to you to determine whether or not since he's removed certain aspects or he says he's testified that he's removed certain aspects, whether that has made this not a business. Now, second, the New Windsor Town Code provides that there shall be no, not, there's no number, it's none, no, N-O storage or parking and use of a trailer and the word trailer is not, is likewise not defined, so you certainly have to make those determinations in your mind before deciding whether on the interpretation use variance. If the board should wish to proceed to a use variance, I remind the board there's still been no compliance with SEQRA that I've heard so without SEQRA compliance, the board doesn't even reach the questions that are normally associated with a use variance. Any questions?

MS. LOCEY: No but if we wanted to go through SEQRA we could make a negative declaration.

MR. KRIEGER: If it was presented, yes, you could.

MS. LOCEY: And there's been no short form?

MS. MASON: There is.

MR. KRIEGER: Is there a short form filed?

MS. MASON: Yes.

MR. KRIEGER: Okay, if you find the short form to be adequate and so forth then you can, and having held the public hearing, you would have to comply with SEQRA to put that up to a vote, it would be an uncoordinated review which means it would be binding in any other forum other than this.

MS. LOCEY: I have one comment that the applicant should be reminded that in order to be granted any variance you need a majority of the board, it's a five member board, meaning you need three votes in your favor, one member is not here, a second member has recused himself, there are three voting members left so in order for you to get approval it would have to be unanimous amongst the remaining board members here this evening.

MR. KRIEGER: That's correct, that's the state law, yes.

MS. GANN: So what Kathleen's basically saying we can either table it or we can take the vote now.

MR. T. RETCHO: Either way Eric he's recused himself regardless so it would be--

MS. GANN: But there's one member missing this evening so it would be a total of four total so that they're just not here tonight.

MR. T. RETCHO: Would that be at the next meeting you'd have to vote?

MR. KRIEGER: Well, it could either be tabled to a specific date or tabled to be taken off the table, there's no guarantee of a specific date that the missing member, you know, there would be four members on that date but you would have the same option then that you have now, look around and say there's only

three then you would, you could ask for it to be tabled again, that's your choice. Out of fairness that's a courtesy that's been extended to every applicant in front of this board when there are only three. Kathleen is absolutely correct and I would just point out for the purpose of edification that it's been the practice of this board if it were tabled to a specific date and there were only three on that date it could be re-tabled if the applicant chose, not like he's stuck with the next date regardless.

MS. LOCEY: Public portion has been closed, Everett, I'm sorry, you had your, you were up here, we gave you a couple minutes, we give everybody fair time, I'm sorry, we closed the public portion.

MR. SMITH: I was just wondering about the tabling, whether or not the whole hearing or just the vote?

MR. KRIEGER: No, since the public portion has been closed, there's no need to have that over again.

MR. SMITH: What about the person who's missing who didn't hear all this?

MS. GANN: It will be in the minutes.

MR. KRIEGER: It's entirely up to that member, if that member feels by reviewing the minutes that he can become sufficiently conversant with this in order to vote then he'll vote. If he feels that he cannot he will so state and this permitting tabling is not designed to bind that particular member to one course of action or the other, it's his call.

MS. LOCEY: I have a question also on the agenda, the first requested variance calls for a two foot building height for proposed eight foot fence but I've seen other things where they have indicated they need a four foot variance for that fence height.

MS. MASON: My paperwork says two.

MS. LOCEY: What's allowed?

MR. KRIEGER: The maximum allowed for side and rear yards.

MS. LOCEY: Is that correct, so it's a two foot variance, not a four foot variance?

MR. KRIEGER: Assuming that he wishes to put it.

MR. T. RETCHO: No, that's--

MS. MASON: Probably goes in front of his house and only four foot is allowed in the front of the house.

MR. KRIEGER: That's correct, if it's in the front of his house then it would be a--

MS. LOCEY: So 6 foot for the side yard.

MR. KRIEGER: Side and rear is 6, front is 4.

MS. MASON: Anything in the front of the house from the house forward.

MS. LOCEY: Okay.

MS. GANN: Any other questions or comments from the board?

MS. LOCEY: One other comment I have the next two interpretations call for an interpretation and/or use variance for the storage, parking and use of quote unquote trailers, what about the other equipment that's there? There was the contained trailer, there was a flatbed, there was something used for blacktopping? That's a trailer?

MR. T. RETCHO: Yes.

MS. LOCEY: These are all considered trailers?

MR. T. RETCHO: Yes.

MS. LOCEY: Okay then that answers that question.
That's not a trailer.

MR. T. RETCHO: That's excluded, that's not in
question.

MS. LOCEY: So this is allowable this commercial
vehicle?

MR. T. RETCHO: Yes.

MS. GANN: Are you speaking about this blue truck?

MS. LOCEY: Yes.

MR. TORPEY: You're allowed to have one truck.

MR. T. RETCHO: The Town Code states no commercial
vehicles, excluded are trucks and SUVs 10,000 pounds or
less, this weights 7,600 pounds.

MR. KRIEGER: So far as the zoning board is concerned
if he wasn't, if no violation was written on account of
that, there's nothing to appeal from and you're the
Zoning Board of Appeals, that doesn't get you to right,
wrong or indifferent, just doesn't get here.

MS. GANN: Anything else?

MR. KRIEGER: It's been the practice for the local
court before whom violations are brought that while the
matter is pending they don't, no decision is made and
that to my understanding has been pretty much the

universal practice. So I would anticipate if the matter is tabled that that would continue to be the case, no local court decision would be made. I think that so in essence it has the affect of extending time so I would ask the board to bear that in mind when setting a tabling date, perhaps they would, it would want to set a sooner date and let at that point let the chips fall where they may.

MS. LOCEY: Well, we're not, the request would not be to table the item for additional information, it's only to--

MR. KRIEGER: For the vote.

MS. LOCEY: And only if the applicant requests it.

MR. KRIEGER: That's correct but you can indicate in your, if there's a motion to table you can either make a motion to table without date or table to a particular date. Usually in the past it's your option but usually in the past it's been the practice of the board to table to a specific date both for the purpose of keeping control over the application, bearing in mind what I said about the, you know, any pending violations and also out of fairness to persons interested in the outcome of this particular application, so that everybody knows what the status is and the use of the tabling mechanism is not an attempt by the members of the zoning board to avoid a vote, it merely is a procedural attempt to be fair.

MS. LOCEY: I think we're prepared to vote if that's what the applicant wants but in all fairness he does have, should have that option cause there's only three voting members here to table it.

MS. GANN: Mr. Retcho, how would you like to proceed?

MR. T. RETCHO: We'll table.

MS. GANN: Okay, we also in the motion we're going to put the tabling date will be July 23.

MS. LOCEY: Why can't it be earlier than that?

MS. GANN: The previous meeting before that is full and I'll accept a motion.

MS. LOCEY: I'll offer a motion to table the decision on the application of Thomas Retcho and Terrance Retcho until July 23, 2007.

MR. TORPEY: I'll second that.

ROLL CALL

MR. LUNDSTROM	ABSTAIN
MS. LOCEY	AYE
MR. TORPEY	AYE
MS. GANN	AYE

(Whereupon, Mr. Lundstrom came back to the board for the remainder of the meeting.)

CHARLES_FLYNN_(07-18)

Mr. Charles Flynn appeared before the board for this proposal.

MS. GANN: Request for 2 foot maximum height for existing 6 foot fence projecting closer to the street than the dwelling at 213 Butterhill Drive. Please state your name and address.

MR. FLYNN: Charles Flynn, 213 Butterhill Drive, New Windsor, New York.

MS. GANN: Tell us why again you're here.

MR. FLYNN: Well, I had an existing 4 foot wood fence so my wife and I decided to get a 6 foot fence and now the one side of the house, the 4 foot fence was taken out 2 feet beyond the house which was the previous owners had so we assumed, you know, it would be all right but actually for a 6 foot fence but we didn't know that even though it's too far away from the road, you know, it's not blocking anybody's view whatsoever, you know. Therefore, you know, we're looking for some privacy, you know, safety and for improving the house.

MS. GANN: So you're using this for privacy?

MR. FLYNN: Yes.

MS. GANN: This is already existing?

MR. FLYNN: Yes, cause we have a pool, we have one gate on the fence, it's locked every night, we have a daughter so and behind the house where the neighbor is behind us have all trees behind on the property so it's not blocking anybody's view whatsoever. We just, you know, it's time for a change, the 4 foot fence was going so, you know, we didn't know that it was going to be a problem.

MR. KRIEGER: It's not over any easements?

MR. FLYNN: No easements.

MR. KRIEGER: No vegetation was cut, removed in order to put up the fence?

MR. FLYNN: No.

MS. GANN: Create any drainage issues or problems?

MR. FLYNN: No. The fence was actually put on the same spot where the 4 foot fence was originally.

MS. GANN: Where is the gate to get in?

MR. FLYNN: Right there, it's a five foot gate we have locked every night.

MR. KRIEGER: How far is the fence from the roadway?

MR. FLYNN: Well, actually, my landscaper did the landscaping, he mentioned 41 feet from the road.

MS. GANN: Any other questions from the board? Is there anyone here for this public hearing? Seeing that there's none, I'll close the public portion, ask Myra how many mailings.

MS. MASON: On the 12th of June I mailed out 70 addressed envelopes, had no response.

MR. LUNDSTROM: Are there other fences like this in your neighborhood?

MR. FLYNN: Oh, yes, guy across the street I told you, Myra, about the neighbor giving problems, he had a fence, well, his fence is flush against the house but my fence was one side flush but the other side was

sticking out two feet from the original owners who had it so I assumed--

MR. LUNDSTROM: So the answer is yes?

MR. FLYNN: Yes.

MS. GANN: I'll accept a motion.

MS. LOCEY: I'll offer a motion to grant the requested variance on the application of Charles Flynn for a two foot maximum height variance for an existing 6 foot fence which projects closer to the street at 213 Butterhill Drive in a CL Zone.

MR. TORPEY: I'll second that.

ROLL CALL

MR. LUNDSTROM	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MS. GANN	AYE

BRIAN_&_ANGELA_MAXWELL_(07-20)

Mr. and Mrs. Brian Maxwell appeared before the board for this proposal.

MS. GANN: Request for 10 foot rear yard setback for proposed pool and request for 23 foot 9 inch rear yard setback for proposed addition at 13 Hudson Drive.

MS. GANN: Give us your name and address please.

MR. MAXWELL: Brian Maxwell, 13 Hudson Drive, New Windsor.

MS. GANN: Tell us what you want to do, why you're here again.

MR. MAXWELL: For an addition on my house and an inground pool.

MS. GANN: How large is the addition?

MR. MAXWELL: It's 16 x 25 or 22, something like that.

MS. GANN: What are you using the addition for?

MR. MAXWELL: Just a Florida room.

MR. TORPEY: No basement?

MR. MAXWELL: No basement.

MR. TORPEY: You know you're not in Florida.

MS. GANN: Will you be cutting down any substantial vegetation in the building of the addition?

MR. MAXWELL: No.

MS. GANN: Creating any water hazards?

MR. MAXWELL: No.

MS. GANN: Cutting down any substantial vegetation?

MR. MAXWELL: You asked that.

MS. GANN: I'm sorry. Does this go over any easements that you know of?

MR. MAXWELL: No easements.

MR. KRIEGER: Once the house is completed, will it be similar in size and appearance to other houses in the neighborhood?

MR. MAXWELL: Yes.

MR. KRIEGER: Won't make it unduly large?

MR. MAXWELL: No.

MS. GANN: And the pool is coming down you mentioned?

MR. MAXWELL: Yes.

MS. GANN: Will you have anything there in terms of walking out of the building, walking out of the home and stepping down, will there be any sort of decking there?

MR. MAXWELL: A step.

MS. GANN: There will just be a step there?

MRS. MAXWELL: Yes.

MS. GANN: Any other questions from the board? Is there anyone here for this public hearing? Seeing that there's not, I'm going to close the public portion and

ask Myra how many mailings we had.

MS. MASON: On June 12, I mailed out 80 envelopes and had no response.

MR. KRIEGER: How will the pool be enclosed?

MR. MAXWELL: With a cover.

MR. KRIEGER: I mean--

MS. GANN: They're taking it down.

MR. MAXWELL: A fence, oh, a fence.

MR. KRIEGER: And you're aware that the fact that you need a self-closing, self-locking gate on the fence?

MR. MAXWELL: Yes.

MR. KRIEGER: Even if a variance is granted by this board for the pool, you're still going to have to comply with all state and local laws in erecting the pool.

MR. MAXWELL: Sure.

MR. KRIEGER: How far will the pool be from the property line to the property with the variance?

MR. MAXWELL: Ten, seven, looking at the house on the right and I believe you have the plans here on the back side of the property it's like--

MR. LUNDSTROM: I don't have detailed plans here, no.

MR. MAXWELL: The plans were submitted to you and you had them last time we were here.

MS. MASON: The building inspector had them and he's

not here.

MR. MAXWELL: I thought that was you, I'm sorry. I think it's 8 or 9 feet.

MR. KRIEGER: Even if the variance is granted, there will still be 8 or 9 feet also?

MR. MAXWELL: Yes.

MR. KRIEGER: It's not really on the property line.

MR. MAXWELL: No.

MS. GANN: I'll accept a motion.

MS. LOCEY: I will offer a motion to approve the requested variances on the application of Brian and Angela Maxwell for a 10 foot rear yard setback for proposed pool and 22 foot 9 inch rear yard setback for proposed additional at 13 Hudson Drive in an R-4 zone.

MR. LUNDSTROM: I'll second that motion.

ROLL CALL

MR. LUNDSTROM	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MS. GANN	AYE

ERNEST_&_GERMAINE_BROWN_(07-21)

Ms. Germaine Brown appeared before the board for this proposal.

MS. GANN: Request for 5 foot side yard setback and 5 foot rear yard setback for proposed above-ground pool at 2515 Constitution Way.

MS. BROWN: Germaine Brown, 2515 Constitution Way, New Windsor.

MS. GANN: How are you? Tell us why you're here again.

MS. BROWN: Requesting for a five foot setback from the rear and from the five foot setback from the side fence to install a 15 x 30 oval swimming pool, above-ground swimming pool.

MS. GANN: Will you be taking down any substantial vegetation?

MS. BROWN: No.

MS. GANN: Will it be going over any easements?

MS. BROWN: No, I have nothing there.

MS. GANN: Any drainage problems that it would possibly cause?

MS. BROWN: No.

MS. GANN: I see you have a fence around here already.

MS. BROWN: Yes.

MR. KRIEGER: Even if the variance were granted there would still be five feet from the side and five feet from the rear.

MS. BROWN: Yes.

MR. KRIEGER: And you heard what I said to the last applicant about the state and local laws having to comply with them?

MS. BROWN: Yes, about the self-closing gate and the pool alarm.

MR. KRIEGER: All the laws.

MS. BROWN: Yes.

MR. KRIEGER: That's just one that I know of but whatever they are the variance doesn't excuse any of those.

MS. BROWN: Right, just allows me to place it there.

MR. KRIEGER: It gets you to the beginning.

MS. GANN: Any other questions? I'm sorry, is there anybody here for this public hearing? Seeing that there's not, I'll close the public hearing and ask Myra how many mailings.

MS. MASON: On June 12, I mailed out 61 envelopes and had no response.

MS. GANN: Any other questions from the board? I'll accept a motion.

MR. LUNDSTROM: Madam Chairwoman, I'll offer a motion to grant the requested variance for Ernest and Germaine Brown regarding a five foot required side yard variance and a five foot required rear yard variance as presented on the agenda of the Zoning Board of Appeals June 25, 2007.

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MR. TORPEY: I'll second that.

ROLL CALL

MR. LUNDSTROM	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MS. GANN	AYE

DARREN_&_JENNIFER_SCHIAROLI_(07-22)

Mr. and Mrs. Darren Schiaroli appeared before the board for this proposal.

MS. GANN: Request for 23.7 foot side yard setback and 48.8 foot total side yard for proposed addition to single family dwelling at 15 Carpenter Road. State your name and address.

MRS. SCHIAROLI: Jennifer and Darren Schiaroli, 15 Carpenter Road, Rock Tavern, New York.

MS. GANN: Tell us again why you're here.

MRS. SCHIAROLI: We're putting an addition onto the back of our house going out attaching it to our, the current existing garage. The variance that we're requesting is the existing garage is I believe 16 feet off the property line and it's required to be 40 when it's attached to the house.

MR. SCHIAROLI: It's an existing garage, it's been there for like 30 years so we're really not getting any closer to the property line just because we're tying the addition into the house or the garage into the house.

MR. KRIEGER: It's detached now?

MR. SCHIAROLI: By attaching it we need 40 feet but we don't, we have 16 now but it's not like we're getting any closer to anybody, we're not moving next to any property lines or anything, you know.

MR. KRIEGER: So the addition is referred to as the attaching portion extending the outward dimensions?

MR. SCHIAROLI: There's an addition going on but we're attaching it together so we're adding.

MRS. SCHIAROLI: The addition is here, the garage is here.

MR. LUNDSTROM: What's the addition going to be used for?

MRS. SCHIAROLI: Additional bedrooms, bathroom and laundry room.

MR. LUNDSTROM: How would they go from there to the garage through the bedroom.

MRS. SCHIAROLI: There's going to be a hallway exit.

MR. SCHIAROLI: At the end of the hallway there's going to be a stairwell, it's all on the plans, we've got the plans right here.

MS. GANN: Will you be cutting down substantial vegetation in the building of this?

MR. SCHIAROLI: No.

MRS. SCHIAROLI: Not at all.

MS. GANN: Create any drainage hazards or water hazards?

MRS. SCHIAROLI: No.

MS. GANN: Will it be going over any easements?

MRS. SCHIAROLI: No.

MS. GANN: Any additional questions from the board? Anyone here for this public hearing? Seeing that there's not, I will close the public portion, ask Myra how many mailings we had.

MS. MASON: On June 12, I mailed out 29 addressed envelopes and had no response.

MS. GANN: Any other questions or comments from the board? I'll accept a motion.

MS. LOCEY: I'll offer a motion to approve the requested variances on the application of Darren and Jennifer Schiaroli as detailed on the agenda of the New Windsor Zoning Board of Appeals meeting dated June 25, 2007.

MR. TORPEY: Second it.

ROLL CALL

MR. LUNDSTROM	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MS. GANN	AYE

KATHRYN_FERRY_(07-17)

MS. GANN: Request for 8 foot side yard setback for existing rear deck on a corner lot at 2 Creamery Drive.

Ms. Kathryn Ferry appeared before the board for this proposal.

MS. GANN: Tell us what you want to do.

MS. FERRY: I am supposed to be 12 foot, we only have 4 foot between the neighbors so I need an 8 foot setback.

MS. LOCEY: There's an existing deck?

MS. FERRY: Yes.

MR. TORPEY: You bought the house and it was there?

MS. FERRY: No, we bought the house no deck.

MS. GANN: How long has the deck been in existence?

MS. FERRY: Twenty years.

MS. LOCEY: Have you had any complaints about it?

MS. FERRY: No.

MS. GANN: Is the deck similar in size to others in the neighborhood?

MS. FERRY: Yes.

MR. KRIEGER: In size and appearance?

MS. FERRY: Yes, the part that goes on is the steps is the way the variance is, not the deck itself so it's the steps that--

MR. LUNDSTROM: It may be obvious from the pictures just so we can get it on the record is there an exit from the house onto the deck there?

MS. FERRY: Yes.

MR. LUNDSTROM: How high is the exit from the house off the ground at that point?

MS. FERRY: About 15 feet.

MR. LUNDSTROM: So it would be hazardous for people to walk out there if the deck were not there?

MS. FERRY: Yes.

MS. GANN: Does the deck go over any easements?

MS. FERRY: No.

MS. GANN: Create any water damage in building the deck?

MS. FERRY: No.

MS. GANN: Take down any substantial vegetation in the building of the deck?

MS. FERRY: No.

MS. GANN: I'll open it up to the public. Being as there's no one here--

MS. MASON: On June 12, I mailed out 64 addressed envelopes and had no response.

MS. FERRY: I already talked to all my neighbors, I was very nice to all my neighbors, I will always be very nice to all my neighbors. That's the lesson I've learned tonight.

MS. LOCEY: That's one we could all learn.

MS. GANN: I'll accept a motion.

MR. LUNDSTROM: I will offer a motion that the requested variance for Kathryn Ferry as documented on the agenda for the June 25, 2007 Zoning Board of Appeals be granted.

MS. LOCEY: I'll second that motion.

ROLL CALL

MR. LUNDSTROM	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MS. GANN	AYE

MS. GANN: Motion to adjourn.

MS. LOCEY: So moved.

MR. LUNDSTROM: Second it.

Respectfully Submitted By:

Frances Roth
Stenographer